

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 1ST DECEMBER 2006 / 10TH AGRAHAYANA 1928

WP(C).No. 14467 of 2006(V)

PETITIONER:

A. MOHAMMED, ORIKUZHI, PADAMUGHAL,
MORARJEE ROAD, VAZHAKKALA, KAKKANAD
THROUGH HIS AUTHORIZED AGENT AND WIFE
SAUTHA MOHAMMED.

BY ADV. SRI.BIJU ABRAHAM

RESPONDENTS:

1. THE HONKONG AND SHANGHAI BANKING
CORPORATION LTD., HARBOUR VIEW RESIDENCY
OPPOSITE SHIPYARD, M.G. ROAD, KOCHI-682 015.
2. THE DISTRICT COLLECTOR, ERNAKULAM.
3. THE VILLAGE OFFICER, VAZHAKALA.

BY ADV. SRI.VARGHESE C.KURIAKOSE, SC
SRI.PRAVEEN K. JOY
SMT.THANKOM.G
G.P. SMT.N.SUDHA DEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- P1 ACCOUNT EXTRACT OF THE ACCOUNTS OF PETITIONER.
- P2 PAYMENT RECEIPTS ISSUED BY R1 DT 24.7.04.
- P3 NOTICE DT 16.10.04.
- P4 REPLY NOTICE SENT BY APPLICANT ON 2.11.04.
- P5 LETTER ISSUED BY R1 ON 15.11.04.
- P6 IDENTITY CARD ISSUED BY SHIPPING CORPORATION OF INDIA.
- P7 REPRESENTATION SUBMITTED TO THE VILLAGE OFFICER DT 26.5.06.
- P8 REPRESENTATION DT 26.5.06 TO THE DISTRICT COLLECTOR.
- P9 REPRESENTATION DT 27.5.06 TO R1.
- P10 AUTHORIZATION LETTER TO THE WIFE OF PETITIONER.
- P11 SECURITISATION APPLICATION SUBMITTED BEFORE DRT.
- P12 REPRESENTATION DT 29.5.06 SUBMITTED TO DISTRICT COLLECTOR.
- P13 LETTER OF DISTRICT COLLECTOR DT 30.5.06 TO R3.

RESPONDENTS'S EXTS:

- R1(A) ORDER DT 16.2.05.

TRUE COPY

P.A. TO JUDGE

C.N. RAMACHANDRAN NAIR, J.

.....
W.P. (C) No. 14467 OF 2006 V
.....

Dated this the 1st day of December, 2006

J U D G M E N T

Petitioner is admittedly in arrears of loan taken for house construction from the 1st respondent. Counsel for the 1st respondent submits that as of now the balance arrears is Rs.6,55,000/-. Eventhough petitioner had an instalment facility under the loan agreement, petitioner forfeited the benefit on account of default in the beginning itself. Counsel for the petitioner submits that petitioner wants to avail loan from elsewhere and to settle the payments due to the 1st respondent. I do not think the 1st respondent can have any objection in this proposal. It is for the petitioner either to clear arrears of instalments and make arrangements with the 1st respondent itself for continuing instalment facility based on original agreement or settle the liability by arranging loan from elsewhere. The petitioner can arrange any loan with any bank or financing institution but no document creating charge should be made without clearing the arrears due to the 1st respondent. If petitioner arranges loan from elsewhere, petitioner can request for payment by the such institution to the 1st respondent directly so that documents of title can be directly given by the 1st respondent to such

financial institution or Bank. Petitioner is given time upto 31.1.2007 to settle liability on any of the basis stated above. No recovery proceedings should be taken against the petitioner till 31.1.2007. However, if petitioner could not pay the amount by 31.1.2007, the 1st respondent can proceed with recovery proceedings in accordance with law.

(C.N. RAMACHANDRAN NAIR, JUDGE)

aks